IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19077 of 2004

Between:

Mrs. B.Satyavathamma, W/o.Sri Ram Murthy,
R/o.Sabhavaram village & Mandal, Visakhapatnam District.

..... PETITIONER

AND

1 The Spl.Dy.Collector, Land Acquisition APIIC (SEZ), behind

sagar durga Hospital, Visakhapatnam.
2 The Dist.collector, Visakhapatnam District, Visakhapatnam.
3 R.Satyanarayana, S/o.R.Appal Naidu,
R/o.Sabbavaram village & Mandal, Visakhapatnam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an order or orders or direction or a writ more particularly one in the nature of a writ of Mandmaus declaring the action of the respondents in not referring the claim of the petitioner to the civil court under section 30,31 of the land acquisition Act for the land situated in sy.Nos.5/7, 21/2, 21/30, 22, 30/9, 31/4,32/3, 33/1, 32/3, 38, 38/11, 51/9, 51/12 to an extent of 10.59 Acres of Boddulapalem, Sy.No.52/3 to an extent of 93 cents of Thallapalem, an extent of 3.89 Acres situated in Sy. Nos.48/24, 56/1, 21/3, 19/13, 19/2, 19/4, 39/1, of Gurajapalem village, an extent of 82. cents in Sy.No.342/2, & 342/3 of Madduturu village, 1.52 Acres and 90 cents in Sy.Nos. 158/1, & 159 of Jangaluru village, 6.94 Acres in Sy.Nos. 234/ID, 235/2, 225/1, 225/2 & 225/4 of Motturupalem village and an extent of 3.01 Acres in Sy.Nos. 298/IB,298/1C, 298/2A and 298/2B of pudi village as arbitrary, illegal and ultravires violative of the petitioner’s rights guaranteed under Article 14 and 300 A of the

Constitution of India and consequently direct the respondent to refer the petitioner claim to the civil court u/s. 30, 31 of the Land Acquisition Act..

Counsel for the Petitioner:MR.R.SUDHEER

Counsel for the Respondents 1and 2: GP FOR REVENUE

The Court, at the stage of admission, made the following :

ORDER:

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Petitioner claims right over the land, which is the subject matter of acquisition and also the subject matter of the suit in O.S.No.36 of 2003, on the file of the Senior Civil Judge, Yellamanchali, which was filed for partition and separate possession. The grievance of the petitioner is that though he filed claim application before the respondents, are not referring the same to the Civil Court.

Since the petitioner has right to participate in the award enquiry by making necessary claim application and filing necessary documents, to prove his entitlement over the property, which is the subject matter of acquisition, the Land Acquisition Officer on filing such claim application has to follow the procedure prescribed under law and necessarily has to conduct an enquiry into the claim of the petitioner after due notice and opportunity under Sections 9 and 10 of the Land Acquisition act. In case, the Land Acquisition Officer feels that there is a dispute as regards the title, the matter has to be referred to the Civil Court and it shall pass appropriate orders after following the procedure prescribed by this Court in ***SHAYAM RAO V. LAND ACQUISITION OFFICER,*** and ***G.VENKATA REDDY V. K.KRISHNA RAO***.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

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A.GOPAL REDDY,J

14.10.2004

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To

1 The Spl.Dy.Collector, Land Acquisition APIIC (SEZ), behind sagar durga Hospital, Visakhapatnam.

2 The Dist.collector, Visakhapatnam District, Visakhapatnam.

3 2 CCs to the G.P. for Revenue, High Court Buildings, High Court of A.P., Hyderabad (O.U.T.)

4 2 CD copies.